REMARKS/ARGUMENTS

Favorable reconsideration of this application in light of the previous amendments and following discussion is respectfully requested.

Claims 2-6 and 8-14 are pending. By this Amendment, Claims 1 and 7 are canceled, Claims 2-6 and 8-10 are amended and new Claims 11-14 are added. No new matter is added.

Applicants appreciate the courtesies extended to Applicants' representative during the August 1 personal interview. The substance of the discussion held is incorporated into the previous amendments and following remarks and constitute Applicants' record of the interview.

The Office Action rejects Claims 1, 3, 5-7 and 9 under 35 U.S.C. §102(b) over U.S. Patent 5,974,218 to Nagasaka et al., Claims 1, 3, 5-7 and 9 under 35 U.S.C. §102(e) over U.S. Patent 6,870,573 to Yeo et al., Claims 2 and 8 under 35 U.S.C. §103(a) over Nagasaka et al. in view of U.S. Patent 5,546,191 to Hibi et al., Claims 2 and 8 under 35 U.S.C. §103(a) over Yeo et al. in view of Hibi et al. and Claims 4 and 10 under 35 U.S.C. §103(a) over Yeo et al. in view of Tonomura et al. These rejections are respectfully traversed.

Before considering the rejections under 35 U.S.C. §102 and 35 U.S.C. §103, it is believed that a brief review of the subject matter of the independent claims would be helpful.

Independent Claim 2 includes a video signal recording and playback apparatus for recording or playing back a video signal and including extracting means for extracting a static picture from a sequence of video signals with a predetermined timing, judgment means for forming a judgment as to whether or not a static picture extracted by the extracting means can be used as a representative picture and setting means for setting a static picture as a representative picture in accordance with an outcome of a judgment formed by the judgment means. The judgment means is capable of forming a judgment as to whether or not a static

picture extracted by the extracting means can be used as a representative picture on the basis of whether or not the static picture is part of the commercial.

Independent Claim 3 includes, *inter alia*, judgment means capable of forming a judgment as to whether or not a static picture extracted by the extracting means can be used as a representative picture on the basis of whether a histogram distribution of the static picture exceeds a predetermined threshold.

Claim 4 includes *inter alia*, judgment means capable of forming a judgment as to whether or not a static picture extracted by the extracting means can be used as a representative picture on the basis of an edge of the static picture.

Claim 5 is directed to a video signal recording and playback method including an extracting step of extracting a static picture from a sequence of video signals with a predetermined timing. A judgment steps forms a judgment as to whether or not the static picture extracted at the extracting step can be used as a representative picture based on whether or not the static picture is part of a commercial. A setting step sets the static picture as a representative picture in accordance with an outcome of a judgment formed at the judgment step.

Claim 11 is directed to, *inter alia*, a judgment step forming a judgment as to whether or not the static picture extracted at the extracting step can be used as a representative picture based on whether a histogram distribution of the static picture exceeds a predetermined threshold.

Claim 12 is directed to, *inter alia*, forming a judgment as to whether or not the static picture extracted at the extracting step can be used as a representative picture on the basis of an edge of the static picture.

Claim 6 is directed to a computer readable medium storing computer program instructions for controlling a video signal recording and playback apparatus for recording or

playing back a video signal which when executed by a computer programmed with the instructions, causes the computer to extract a static picture from a sequence of video signals with a predetermined timing. A computer judges whether or not the static picture extracted at the extracting step can be used as a representative picture based on whether or not the static picture is a part of a commercial. The static picture is set as a representative picture in accordance with an outcome of the judgment.

Claim 13 is directed to, *inter alia*, forming a judgment as to whether or not the static picture extracted at the extracting step can be used as a representative picture on the basis of whether a histogram distribution of the static picture exceeds a predetermined threshold.

Claim 14 is directed to, *inter alia*, forming a judgment as to whether or not the static picture extracted at the extracting step can be used as a representative picture on the basis of an edge of the static picture.

Independent Claim 8 is directed to a video signal recording playback apparatus for recording or playing back a video signal. An extracting mechanism is configured to extract a static picture from a sequence of video signals with a predetermined timing. A judgment mechanism is configured to form a judgment as to whether or not the static picture extracted by the extracting mechanism can be used as a representative picture. A setting mechanism is configured to set the static picture as a representative picture in accordance with an outcome of a judgment formed by the judgment mechanism. The judgment mechanism is capable of forming a judgment as to whether or not a static picture extracted by the extracting mechanism can be used as a representative picture on the basis of whether or not the static picture is part of a commercial.

Claim 9 is directed to, *inter alia*, a judgment mechanism capable of forming a judgment as to whether or not a static picture extracted by the extracting mechanism can be

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used as a representative picture on the basis of whether a histogram distribution of the static picture exceeds a predetermined threshold.

Claim 10 is directed to, *inter alia*, the judgment mechanism being capable of forming a judgment as to whether or not a static picture extracted by the extracting mechanism can be used a representative picture on the basis of an edge of the static picture.

With respect to Claims 2, 5, 6 and 8, the Office Action recognizes that Nagasaka fails to disclose that the judgment means is capable of forming a judgment as to whether or not a static picture extracted by the extracting means can be used as a representative picture on the basis of whether or not the static picture is part of a commercial. Applicants respectfully disagree with the Office Action's assertion that Hibi cures the deficiencies of Nagasaka. As stated in Hibi at column 25, line 35 a mode is changed only at the start of a commentary or a commercial, or upon completion of them, such a commentary and commercial being inserted before and/or after the program. For this reason, an image taken from a record starting point cannot be used for a multiscreen for retrieval. Thus, in Hibi it is merely assumed that a record starting point contains a commercial. There is no specific identification of a commercial. Furthermore, the mode is an audio mode and not related to a video signal.

With respect to Claims 3, 9, 11 and 13 Nagasaka does not disclose forming a judgment as to whether or not a static picture can be used as a representative picture on the basis of whether a histogram distribution of the picture exceeds a predetermined threshold.

As discussed at column 10, line 24 et seq., Nagasaka compares frequency differences between plural frames. Likewise, in Yeo if the color histograms of successive frames vary in a significant manner than the frame/video capture control module may capture successive image frames to capture a video. Thus, neither Nagasaka nor Yeo form a judgment based on whether a histogram distribution of a single static picture exceeds a predetermined threshold.

With respect to Claims 4, 10, 12, and 14, the Office Action recognizes that Yeo does not disclose forming a judgment as to whether or not a static picture can be used as a representative picture on the basis of an edge of the static picture. Applicants respectfully disagree with the Office Action's assertion that Tonomura provides the deficiencies of Yeo. Tonomura discloses at column 7, line 23 that edge information may be included in video index table 121A. However, Tonomura does not disclose using the edge information to generate a representative image. Furthermore, as discussed at column 8, line 19 et seq. a user sets conditions to generate representative images. Thus, a user must make a judgment not an apparatus.

Furthermore, the Office Action asserts that it would have been obvious to one of ordinary skill in the art to modify Yeo with Tonomura by providing the apparatus of Yeo with a judgment means as taught by Tonomura as an additional judgment means to detect the representative picture by using an edge of the picture thereby enhancing the capacity of the apparatus of Yeo. However, this statement of motivation, in effect, provides that it would have been obvious to combine Tonomura with Yeo merely to improve Yeo. It provides no motivation why one of ordinary skill in the art would have been motivated to specifically use the feature of an edge of a static picture as a basis to make a judgment. The teaching or suggestion to make a claimed combination may not be based on the Applicants' disclosure. There must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine the teachings. A statement of motivation based on enhancing the capabilities of the references is inadequate as this motivation is always present.

For the foregoing reasons, it is respectfully submitted that this application is now in condition for allowance. A Notice of Allowance is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this

application in even better form for allowance, the Examiner is encouraged to contact

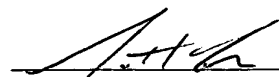Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

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